



2018 ANNUAL REPORT

New York State Assembly

Carl E. Heastie

Speaker

Committee on

Election Law

Charles D. Lavine

Chairman





Charles D. Lavine
Assemblyman 13th District
Nassau County

THE ASSEMBLY
STATE OF NEW YORK
ALBANY

CHAIRMAN
Committee on Election Law
COMMITTEES
Codes
Ethics and Guidance
Health
Insurance
Judiciary

December 15, 2018

Honorable Carl Heastie
Speaker of the Assembly
New York State Assembly
State Capitol
Albany, New York 12248

Dear Mr. Speaker:

It is with great pleasure that I present to you the 2018 Annual Report of the Assembly Standing Committee on Election Law.

The 2018 legislative session was an active one for the Election Law Committee. The Committee reported legislation that was later enacted into law, including moving the September 2018 primary date from Tuesday, September 11th to Thursday, September 13th and strengthening disclosure for digital independent expenditures.

Other important legislative initiatives which the Committee reported and the Assembly passed included:

- Closing the LLC "loophole";
- Authorizing the use of Electronic Poll Registration Books at poll sites;
- Establishing a system for online voter registration;
- Providing for a period of early voting to allow all voters sufficient opportunity to cast their ballot;
- Proposing a constitutional amendment to provide all voters the opportunity to vote by absentee ballot;
- Requiring political communications be attributed to the person(s) or committee who paid for them;
- Establishing an Attorney General pre-clearance process to ensure minority voting rights are protected; and

- Creating a ballot layout that is easier for voters to read and use.

I am proud of the Committee's record of achievement this past year. The Committee and Assembly have diligently, aggressively, and intelligently advanced policies to increase transparency, fairness and integrity in the electoral process. In that capacity, the Committee held a public hearing on November 15, 2018, to examine ways to improve access to voting, both in person and by absentee ballot, including through early voting and no-excuse absentee ballot reforms.

The goal of this Committee remains unchanged: to instill in voters the confidence that our electoral system is structurally honest, fair to all New Yorkers, and secure against cyber threats. Through this Committee's oversight of existing institutions and its advocacy of initiatives designed to bring about reforms, New York has made, and continues to make, great strides towards this goal. The 2019 session will, no doubt, again see forceful debate on the ways in which we can modernize and improve our elections systems across the State.

Sincerely,



Charles D. Lavine
Chairman
Election Law Committee

**2018 ANNUAL REPORT
of the
New York State Assembly
Standing Committee on Election Law**

**Chuck Lavine
Chairman**

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I. INTRODUCTION

Committee Jurisdiction

The jurisdiction of the Assembly Standing Committee on Election Law (hereinafter known as “the Committee”) includes all legislation that affects elections on the national, state and local levels, including ballot access, voter registration and enrollment, voter education and outreach, campaign financing and related administrative procedures of the State Board of Elections and local boards of elections.

Executive Summary

During the 2018 legislative session, the Assembly Standing Committee on Election Law remained focused on the aim of expanding the opportunity for voters to meaningfully participate in the electoral process as well as improving and modernizing the process and opportunity for eligible citizens to register to vote.

The Committee championed, and the Assembly passed legislation to enact “Early Voting,” which would allow voters an opportunity to vote at their convenience during a period of seven days prior to Election Day. The Assembly also passed a constitutional amendment which would allow all New York State voters to vote by absentee ballot should they choose to do so. The Assembly passed legislation designed to improve the ease and efficiency with which eligible New Yorkers are able to register to vote by creating a system through which eligible citizens could register online. Additionally, the Assembly passed legislation that would allow New York State poll sites to use electronic voter registration poll books, which would streamline and expedite the process of signing in and checking the registration status of voters on Election Day. These reforms would add New York State to the growing list of states that put the needs of voters first and foremost.

Since the Supreme Court’s 2010 *Citizens United* decision, the electoral process in New York has been inundated with unprecedented amounts of unregulated independent expenditure money. The impact of *Citizens United* is abundantly clear: unfettered money dilutes the voices of the people in electoral politics. In recognizing the need for campaign finance reform, the Assembly passed several pieces of reform legislation, including closing the “LLC Loophole” to prevent wealthy donors from making unlimited campaign contributions to individual recipients. The Assembly additionally passed legislation to ensure that political communications must include the name of the person/s or committee who paid for it.

II. HIGHLIGHTS OF THE 2018 LEGISLATIVE SESSION

The Democracy Protection Act (A.9509-C Budget: Chapter 59)

As part of the State budget, the “Democracy Protection Act” was enacted. This law prohibits foreign entities from forming independent expenditure committees and purchasing political ads in order to influence New York elections. The act requires digital ad buyers to register as independent expenditure committees, requires paid independent political online ads to clearly display that the ad was not authorized by any candidate, and display who paid for the ad.

The Democracy Protection Act also requires independent expenditure committees to submit reports of expenditures on internet and digital ads to the State Board of Elections, and directs the State Board of Elections to create an online database of all political communications to make them transparent and accessible to the press, fact-checkers, political opponents and the public.

Adjusting the 2018 Fall Primary (A.8917-A Carroll, Chapter 3)

This law moved the 2018 fall primary from Tuesday, September 11, to Thursday, September 13, 2018, and adjusted the political calendar accordingly.

III. 2018 COMMITTEE INITIATIVES THAT PASSED THE ASSEMBLY BUT WERE NOT CONSIDERED BY THE SENATE

Special ballots for election workers (A.79, Cahill)

This bill would allow election workers to submit special ballots any time after such ballots are printed and until the close of polls on Election Day.

Accessible sample ballots (A.267-C, Rosenthal)

This bill would require the State Board of Elections to create a system that would allow ballot information to be made publicly available via its website, as well as the website of a county board of elections, and in such a way as to be accessible to the voters with certain disabilities.

Online absentee ballot application (A.401-A, Abinanti)

This bill would require the State Board of Elections to provide a system through which voters can electronically submit an application to vote by absentee ballot. Such a system would require the voter to submit verifying information in order to receive an electronically transferred absentee ballot application.

E-mail notifications (A.1057, Galef)

This bill would authorize the inclusion, at a voter's option, of an e-mail address in the voter registration application and notices to be sent via e-mail and by U.S.P.S.

Poll watchers (A.1259, Buchwald)

This bill would clarify the process for appointing poll watchers for any general, primary, special, or village or town election.

Permissive town referendums (A.1345, Zebrowski)

This bill would require town special elections initiated by a petition to be held at the next general election unless specified in the petition. The bill would also provide that town elections proposed by town board motions can be held on either a general, special, or biennial election.

Email address option on voter registration form (A.1949, Mayer)

This bill would require an optional place for the voter to include an email address on the voter registration form. Currently, the State Board of Elections includes this information on the registration form but is not required to do so by statute.

Political communications (A.2158-A, Zebrowski)

This bill would require that political communications disclose the identity of the political committee that made the expenditure for the communication.

Enacts “The Young Adult Voter Registration Act” (A.3843-A, Sepulveda)

This bill would require public and private schools to make voter registration forms and registration assistance available to all students and require the department of education to send a voter registration form to all graduating students and any other student who requests one.

Clarifies absentee ballot provisions in education and town law (A.3929, Aubry)

This bill would make conforming changes to the education law and town law to ensure that the statement of absentee voter printed on the absentee ballot envelope is consistent with existing election law, which provides that a person convicted of a felony and incarcerated may vote once they have completed their maximum sentence of imprisonment or been discharged from parole.

Expands the deadline to receive an absentee ballot application (A.4920, Weprin)

This bill would provide that absentee ballot applications may be received by the Board of Elections, by accepted methods, up to the day before an election.

Braille absentee ballots (A.4961-B, Weprin)

This bill would enable blind or visually impaired persons to request and receive Braille or large-print absentee ballots for all elections.

Vacancies for office (A.5381-A, Cusick)

This bill would require that when a special election has not been called to fill a vacancy, and the office is to be filled at the general election for more than one sequential period, then the office shall appear only once on the ballot at the general election.

Voter Enfranchisement Modernization Act (A.5382, Cusick)

This bill would establish an electronic voter registration system through which voters may register to vote online.

Electronic poll books (A.5547, Cusick)

This bill would authorize electronic poll books at a county's option and updates the list of supplies to be delivered to poll sites.

Size of election districts (A.5576, Cusick)

This bill would increase the number of registrants an election district may contain with the approval of the county board of elections.

Pre-clearance for voting policies (A.5925, Walker)

This bill would establish a pre-clearance process for any proposed changes to voting regulations or procedures that affect jurisdictions that are subject to Section 5 of the Voting Rights Act in order to ensure that the right of citizens to vote is not denied on account of race, color or language.

Filing requirements for certain candidate committees (A.6732-A, Seawright)

This bill would eliminate the one thousand dollar (\$1,000) filing threshold and thus require all candidates or their authorized committee to electronically file with the State Board of Elections, while removing the requirement for all local and county filers to file with their respective County Board of Elections.

Special ballots for victims of domestic violence (A.7009, Paulin)

This bill would create a special ballot for victims of domestic violence to vote in the same manner as voters who vote via absentee ballot, if they choose to.

Relates to the election of trustees for the Long Island Power Authority (A.7043, Thiele)

This bill would remove the references in the election law to necessary collection of petition signatures for the office of LIPA trustees. Such positions are now appointed and not elected and the references in election law are no longer valid.

Alternative poll site staffing (A.7383, Buchwald)

This bill would authorize a board of elections to design an alternative poll site staffing plan to more efficiently conduct an election. Alternative poll site staffing plans would be required to be filed with the State Board of Elections. Such plan would need to provide for at least four inspectors, equally divided among the major parties, to be assigned to each poll site, and all staffing would be required to be bipartisan.

Filing a New Party Certificate (A.7404, Galef)

This bill would require a new party to file a certificate including the name and emblem of the new party no later than the last day of February after the election at which the independent body attains party status.

Elimination of duplicate filings (A.7518, Seawright)

This bill would provide that any candidate or authorized candidate's committee required to file electronically with the State Board of Elections be deemed to satisfy the requirement upon making electronic filings with a local campaign finance board.

Ballots by mail (A.7623, Vanel)

This bill would authorize voting by mail by amending the NYS Constitution to remove the cause requirements for absentee ballot voting.

Specification of objections for petitions and nominations (A.7761, Steck)

This bill would establish statewide uniformity with regard to specific objections to nominating petitions, designating petitions or certificates of nomination or ballot access documents.

Special election notification (A.8393-B, Rosenthal)

This bill would require boards of election to post on its website, as soon as practicable, but not less than two weeks before a special election, the date, time, and offices to be voted on in a special election.

Uniform Election Night Procedure Act (A.9606, Lavine)

This bill would improve uniformity and clarity in Article Nine of the Election Law following the enactment of the "Election Night Poll Site Procedures Act," streamlining the process for winding down poll sites at the end of an election day.

Voter Friendly Ballot Act (A.9607, Lavine)

This bill would create a ballot layout that is easier for voters to read and use and would help ensure a more voter-friendly experience.

Early voting (A.9608-B, Lavine)

This bill would establish a system for early voting throughout the state, requiring a seven-day period for in-person voting prior to any primary, special, or general election day.

Closing the LLC loophole (A.9758-A, Simon)

This bill would add Limited Liability Companies (LLCs) to §14-116 of the Election Law, which governs political contributions made by corporations and joint stock associations, imposing the same \$5,000 contribution limits for LLCs. This bill also requires disclosure of membership interests and requires attribution of an LLC's contributions to its members.

Validating witness signatures (A.9921-A, Buchwald)

This bill would provide that a court may receive sworn testimony from a signer of a designating petition as to the authenticity of his or her own signature.

Boards of Election posting campaign contribution limits (A.9922, Buchwald)

This bill would require local boards of election to calculate and publish on their website, on or before April 15, all contribution limits for the county, town, city and village offices on the ballot in that year, as well as provide such contribution limits to the State Board of Elections.

Ballot Instructions (A.9923, Buchwald)

This bill would require ballots to include instructions in a format provided by the State Board of Elections, which may include a graphic arrow, indicating the ballot is two-sided.

"The Democracy Protection" Act (A.9930, Zebrowski)

This bill provides for greater transparency related to digital and non-digital political communications.

Committees to receive notices (A.9984, Galef)

This bill would provide the capacity for committees to receive notices for opportunity to ballot committees to bring a proceeding under this chapter in the same manner as a candidate named on such petition.

The use of election equipment for local governments (A.10538, Abinanti)

This bill would provide that county boards of elections, whenever possible, allow towns, villages, school districts, fire, ambulance, water, sanitation, police and other special districts within the county to use voting systems and other equipment owned by it and used to conduct elections or for educational and instructional purposes, upon such terms and conditions as shall be fixed by the board of elections, including a determination of costs not to exceed actual expenses of such board.

IV. Election Committee Public Hearing

On November 15, 2018, the Committee held a public hearing on improving access to voting, both in person and by absentee ballot, including through early voting and no-excuse absentee ballot reforms. As the 2019 legislative session promises to be one in which voter reform is a priority for both legislative chambers, the committee sought input from a broad variety of sources. Those who provided testimony at the hearing included election administrators from the State Board of Elections, the New York City Board of Elections, the Election Commissioners Association, and the Office of the New York City Mayor; good government groups including the Brennan Center, Citizens Union, Common Cause, ReInvent Albany, and the League of Women Voters; legal, voting, civil, and disability advocates including the NYS Democratic Lawyers Council, NYC Bar Association, the NYCLU, the NAACP, the National Action Network, and the American Council of the Blind. Testimony was also provided by New York State's two largest election equipment and software vendors, ES&S and Dominion Voting Systems.

The majority of the testimony focused on the expressed desire for the implementation of early voting and the various logistical considerations related to that. Witnesses also expressed the need for a dedicated and continuous source of state funding for early voting. In addition to early voting, substantial testimony was given to the need for other election reforms including combining federal, state and local primaries, automatic voter registration, online voter registration, and electronic poll books, among others.

Appendix A

**SUMMARY OF ACTION ON ALL BILLS
REFERRED TO THE COMMITTEE ON ELECTION LAW**

TOTAL NUMBER OF COMMITTEE MEETINGS HELD 7

| | | |
|-----------------|---------------|--------------|
| <u>ASSEMBLY</u> | <u>SENATE</u> | <u>TOTAL</u> |
| <u>BILLS</u> | <u>BILLS</u> | <u>BILLS</u> |

BILLS REPORTED FAVORABLE TO:

| | | | |
|----------------|-----------|----------|-----------|
| Codes | 3 | 0 | 3 |
| Judiciary | 0 | 0 | 0 |
| Ways and Means | 8 | 0 | 8 |
| Rules | 5 | 0 | 5 |
| Floor | 17 | 0 | 17 |
| TOTAL | 33 | 0 | 33 |

COMMITTEE ACTION

| | | | |
|-------------------------------|------------|----------|------------|
| Held For Consideration | 9 | 0 | 9 |
| Defeated | 0 | 0 | 0 |
| Enacting Clause Stricken | 13 | 0 | 13 |
| REMAINING IN COMMITTEE | 184 | 7 | 191 |

BILLS REFERENCE CHANGED TO:

| | | | |
|--------------|----------|----------|----------|
| TOTAL | 0 | 0 | 0 |
|--------------|----------|----------|----------|

APPENDIX B

2018 CHAPTERS

| <u>BILL NUMBER</u> | <u>SPONSOR</u> | <u>DESCRIPTION</u> | <u>CHAPTER NUMBER</u> |
|-------------------------------|-----------------------|---------------------------------|----------------------------------|
| A.8917-A | Carroll | Adjusting the 2018 Fall Primary | 3 |
| A.9509-C | Budget | "The Democracy Protection Act" | 59 |